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7 April 2017

Panel on Health Services  
Legislative Council Complex,  
1 Legislative Council Road,  
Central, Hong Kong

Dear Chairperson and Members,

***Submission on Hong Kong Code of Marketing of Formula Milk and Related Products  
and Food Products for Infants & Young Children ("Hong Kong Code")***

The Competition Commission understands that the Panel on Health Services ("Panel") will convene a special meeting on Monday, 10 April 2017 to receive deputations on the Hong Kong Code.

The purpose of this letter is to inform the Panel that the Commission has been in touch with both the Hong Kong Infant and Young Child Nutrition Association ("Association") and the Government relating to the marketing of formula milk and related products.

In 2016, the Commission was approached by the Association to comment on the Second Edition of the Association's Code of Practice for the Marketing of Infant Formula ("Association's Code") which was intended to be binding on the respective members represented by the Association. On that occasion, the Commission had provided its comments on certain provisions which we believed to be of competition concern.

The Commission was recently made aware that the Government had issued the Hong Kong Code. Noting that there were some provisions within the Hong Kong Code that might similarly be of competition concern, the Commission has approached the Food and Health Bureau and the Department of Health to seek clarifications as well as to convey the Commission's views on these provisions. The Commission is pleased to note that the Government has acknowledged our concerns and is in the process of reviewing the Hong Kong Code with a view to making some appropriate adjustments.

The Commission fully understands that one of the key reasons for introducing a code (whether it be the Hong Kong Code or the Association's Code) is in recognition of the importance of breastfeeding in line with the recommendations promulgated by the World Health Organisation ("WHO"). The Commission also understands that in drafting the respective codes, both the Association and the Government have made close reference to the 1981 WHO International Code. That the respective codes may give rise to competition concerns was likely due to inadvertence as opposed to being on purpose, and in the Commission's view, these concerns may be addressed by making some adjustments to the relevant provisions.

Should there be any further queries regarding the competition aspects of the Hong Kong Code, the Commission would be pleased to continue to liaise with the relevant stakeholders and to provide any assistance as may be necessary.

Yours faithfully,

Rasul Butt

Senior Executive Director

Competition Commission